

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)

CONNECT AMERICA FUND PHASE II AUCTION)

CONNECT AMERICA FUND)

AU Docket No. 17-182

WC Docket No. 10-90

REPLY COMMENTS OF SPACE EXPLORATION TECHNOLOGIES CORP.

Space Exploration Technologies Corp. (“SpaceX”) hereby submits these reply comments to comments filed in response to the Public Notice¹ regarding procedures for the Connect America Fund Phase II auction (“Auction 903”). As SpaceX proposed in its comments, if the Commission hopes to meet the goal of cost effective, nationwide broadband available in even the hardest to reach areas in the United States, it must not adopt measures that exclude any technology that meets the baseline service criteria for the auction. Commission action since comments were filed and other comments in this proceeding convincingly reinforce SpaceX’s proposals to the Commission.²

¹ *Connect America Fund Phase II Auction*, AU Docket No.17-182, WC Docket No 10-90, Public Notice, FCC 17-101 (rel. Aug. 4, 2017) (“Public Notice”).

² *See* Comments of Space Exploration Technologies Corp., AU Docket No. 17-182, WC Docket No. 10-90 (filed Oct. 18, 2017) (“SpaceX Comments”).

At its Open Meeting on September 26, 2017, the Commission adopted a Report and Order and Further Notice of Proposed Rulemaking removing “regulatory obstacles for companies proposing to provide [broadband] services via large, ambitious, non-geostationary-satellite orbit (NGSO), fixed satellite service (FSS) systems.”³ SpaceX supported the Commission’s actions in that proceeding to update outdated NGSO rules, create greater regulatory certainty and add flexibility for next-generation NGSO systems holding the promise of truly nationwide satellite broadband coverage at speeds and latencies comparable to terrestrial fiber-optics. Chairman Pai recognized the importance of NGSO systems, stating that “[a]s we strive to close the digital divide, we must be open to any and every technology that could connect consumers across the country. . . . The rules we adopt will promote the next generation of NGSO systems, which could expand broadband access where it’s needed most.”⁴ Commissioner Clyburn similarly stated that “[t]oday, we take yet another step to close those gaping divides by updating and streamlining rules to facilitate the deployment of NGSO FSS systems, which have the potential to provide ubiquitous broadband services to all of our communities.”⁵

By adopting new NGSO rules and moving briskly on NGSO applications for U.S. market access and systems licenses,⁶ the Commission underscored the vital role that NGSO systems can have for the broadband landscape of the future, and showed that this future is coming imminently.

The Commission should act consistently in adopting rules for Auction 903 and recognize the role that NGSO systems can play in meeting the auction’s core objectives. Given the

³ *Update to Parts 2 and 25 Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters*, IB Docket No. 16-408, Report and Order and Further Notice of Proposed Rulemaking, FCC 17-122 (rel. Sept. 27, 2017) (“*NGSO Report & Order*”).

⁴ *NGSO Report and Order*, Statement of Chairman Ajit Pai.

⁵ *Id.*, Statement of Commissioner Mignon L. Clyburn.

⁶ *Id.*, Statement of Chairman Ajit Pai (stating that he has circulated to the Commissioners orders granting U.S. market access to two more NGSO systems).

fundamentally different latency and speed capabilities across existing GSO systems and proposed NGSO systems, there is no rationale to exclude NGSO satellite systems generally from bidding for certain performance tiers or latency when these systems can meet the relevant requirements. Moreover, the Commission should not limit support to only those technologies already used by other applicants. Adtran argues convincingly that it “makes no sense to restrict applicants to currently offered technology” given the “rapid pace of broadband technology developments” and the fact that the Commission is awarding subsidies for the next decade.⁷ The Wireless Internet Service Providers Association objects to any kind of preclusion, stating that “[t]here should be no special rules or special showings for any technology or class of bidder, just the requirement to satisfy the public interest obligations,” as otherwise the auction will lead to perverse results without any real justification.⁸

The two parties arguing for broad preclusion and strictly limiting the auction to support only current technology presume that improvements to current satellite broadband technology are somehow so distantly speculative that taking them into account constitutes a significant risk to the integrity of the auction.⁹ This presumption is not only baseless, it is irrelevant, given that the Commission’s requirements for participation in Auction 903 ensure that applicants can meet or exceed high standards to serve the public interest, including evidence of financial capability and spectrum availability. If the Commission can evaluate applicants to this level, it is surely

⁷ Comments of Adtran, Inc., AU Docket No. 17-182, WC Docket No. 10-90 (filed Oct. 18, 2017) at 2; *see also* Comments of California Internet, L.P. DBA Geolinks, AU Docket No. 17-182, WC Docket No. 10-90 (filed Oct. 18, 2017) at 2-4 (showing that the Commission should encourage spectrum policies that allow participation by emerging wireless technologies).

⁸ Comments of The Wireless Internet Service Providers Ass’n, AU Docket No. 17-182, WC Docket No. 10-90 (filed Oct. 18, 2017) at 18-19 (“WISPA Comments”).

⁹ *See* Comments of ITTA, AU Docket No. 17-182, WC Docket No. 10-90 (filed Oct. 18, 2017) at 5-7; Rural Coalition Comments, AU Docket No. 17-182, WC Docket No. 10-90 (filed Oct. 18, 2017) at 24-26.

capable assessing whether a proposed technology could be deployed within the timeframes contemplated by the CAF II auction rules.

Restricting support to only currently available technologies unfairly favors incumbents to the detriment of Americans seeking modern broadband access. It would leave no room for technologies that could truly help expand affordable broadband access to the most remote and hard-to-reach communities. The Commission should reject such an outcome as contrary to the public interest and instead favor a competitive approach that at least considers what all providers now and in the very near future will bring to American consumers.

With regard to the spectrum bands included in Appendix B to the Public Notice, SpaceX agrees with WISPA's comments that Appendix B should be viewed as voluntary. SpaceX also agrees with both WISPA and Hughes Network Systems that numerous other spectrum bands should be included in Appendix B.¹⁰ It would appear that SpaceX was not the only party questioning how the Commission intends to use Appendix B, and the record of this proceeding so far does not provide any reliable set of principles to guide what spectrum might be included or excluded.

The NGSO Order and comments in this proceeding show that the Commission should encourage participation of imminent technologies such as NGSO systems, rather than imposing poorly and partially justified restrictions on what technologies applicants might use, or imposing an artificial restriction on spectrum applicants might use. Doing so is unnecessary given the numerous other requirements applicants must meet, and would run directly counter to repeated statements by the Commission and its Commissioners in this proceeding and in considering the benefits of NGSO systems.

¹⁰ WISPA Comments at 17-18; Comments of Hughes Network Systems, LLC, AU Docket No. 17-182, WC Docket No. 10-90 (filed Oct. 18, 2017) at 7-8.

Respectfully submitted,

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October 18, 2017